

ESTTA Tracking number: **ESTTA66160**

Filing date: **02/13/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Mars, Incorporated
Granted to Date of previous extension	02/22/2006
Address	6885 Elm Street McLean, VA 22101-3883 UNITED STATES
Attorney information	Timothy J. Kelly FITZPATRICK, CELLA, HARPER & SCINTO 30 Rockefeller Plaza, 38th Floor New York, NY 10112-3801 UNITED STATES tkelly@fchs.com, kwest@fchs.com Phone: 212-218-2100

### Applicant Information

Application No	78556779	Publication date	10/25/2005
Opposition Filing Date	02/13/2006	Opposition Period Ends	02/22/2006
Applicant	Bal Maraj 1400 N Harbor Blvd. Suite 610 Fullerton, CA 92835 UNITED STATES		

### Goods/Services Affected by Opposition

Class 030. All goods and services in the class are opposed, namely: Rice and prepared ready to eat entrees consisting primarily of rice, but also containing pasta, eggs, vegetables, noodles, cheese and sauce
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Attachments	Notice of Opposition -- UNCLE BAL'S.pdf ( 5 pages )
Signature	/tjk/
Name	Timothy J. Kelly
Date	02/13/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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MARS, INCORPORATED,	-----X	
	:	
	:	Serial No.: 78/556,779
Opposer,	:	
	:	Opposition No.:
v.	:	
	:	
BAL MARAJ,	:	
	:	
Applicant.	:	

**NOTICE OF OPPOSITION**

In the matter of pending trademark application Serial No. 78/556,779 for the mark UNCLE BAL’S RICE DISH (hereinafter “Applicant’s Mark”) in International Class 30 filed by Bal Maraj, 1400 N. Harbor Blvd., Suite 610, Fullerton CA 92835 (hereinafter “Applicant”) for “Rice and prepared ready to eat entrees consisting primarily of rice, but also containing pasta, eggs, vegetables, noodles, cheese and sauce”, published in the Official Gazette of October 25, 2005, Mars, Incorporated (hereinafter “Opposer” or “Mars”), with a business address at 3250 E. 44<sup>th</sup> Street, Vernon, California 90058, believes it will be damaged by the registration of such trademark and hereby opposes same.

The grounds for opposition are as follows:

1. Opposer Mars, Incorporated, through its former division and predecessor-in-interest, Uncle Ben’s, Inc., is and for many years has been an internationally known manufacturer, distributor and seller of a wide range of food products including its UNCLE BEN’S® Brand rices, rice mixes, packaged entrees (containing meat, vegetables, rice, pasta, sauces and seasonings), soups, stuffing mixes, sauces, and marinades.

2. Opposer is using the distinctive trademark UNCLE BEN'S® in interstate commerce, and, through its predecessors-in-interest, has used that trademark in connection with food products since at least as early as 1937. In addition to the famous UNCLE BEN'S® trademark, Opposer has for nearly as many years used, in connection with its UNCLE BEN'S® brand products, a unique portrait design depicting the head and shoulders of a man in an oval-shaped frame (the "Portrait Design").

3. Long prior to the filing date of the intent-to-use application opposed herein, Opposer adopted and used the famous trademark UNCLE BEN'S® for food products and related services. In connection with such use, Opposer has spent substantial sums of money advertising and promoting its products and services sold under these trademarks, and has enjoyed substantial sales of such products and services.

4. Opposer is the owner of numerous Federal trademark registrations for the trademark UNCLE BEN'S®. These trademark registrations include the following:

<b><u>Trademark</u></b>	<b><u>Registration No.</u></b>	<b><u>Registration Date</u></b>	<b><u>Goods</u></b>
UNCLE BEN'S	437,176	March 9, 1948	rice for food
UNCLE BEN'S	740,123	October 30, 1962	food mixes consisting of rice, dehydrated vegetables, chicken or meat extracts, spices, seasonings and other food ingredients
UNCLE BEN'S	903,134	November 24, 1970	rice
UNCLE BEN'S	1,695,480	June 16, 1992	gravies and sauces

<b><u>Trademark</u></b>	<b><u>Registration No.</u></b>	<b><u>Registration Date</u></b>	<b><u>Goods</u></b>
UNCLE BEN'S AND DESIGN	1,888,708	April 11, 1995	rice
UNCLE BEN'S	1,995,687	August 20, 1996	rice pudding mix
UNCLE BEN'S	1,997,104	August 27, 1996	rice and beans mix
UNCLE BEN'S	2,001,081	September 17, 1996	soup mixes
UNCLE BEN'S	2,002,712	September 24, 1996	stuffing mixes containing bread

Certified copies of these registrations (as well as others) will be made of record during Opposer's testimony period.

5. As a result of the substantial use, sales, advertising and promotion by Opposer of products bearing the UNCLE BEN'S® trademarks, those trademarks (and, indeed, the UNCLE BEN'S® family of trademarks) (collectively the "UNCLE BEN'S® Trademarks"), have become famous and exclusively associated with Opposer. Such fame was established long prior to the filing date of the opposed application. Further, as a result of this extensive use, Opposer has acquired an eminent reputation and valuable goodwill throughout the United States in the UNCLE BEN'S® Trademarks.

6. Because the UNCLE BEN'S® Trademarks and the goods and services sold by Mars under those trademarks are exclusively associated with Opposer, the registration of Applicant's substantially similar mark for food products, namely the products specified in the application, will inevitably cause confusion in the minds of the

public, leading the public to believe that Applicant's goods emanate from Opposer or that Applicant is in some way associated with or connected to Opposer, when no such relationship exists.

7. It is likely that the products upon which Applicant has alleged it intends to use Applicant's Mark, will be sold and promoted in at least some of the same channels of trade as, and to the same class of consumers as the food products bearing Opposer's UNCLE BEN'S® Trademarks.

8. Accordingly, because the goods for which Applicant's mark will be used are closely related to, will likely travel in the same channels of trade as, and will likely be marketed to the same classes of consumers as those goods on which Opposer has been and presently is using its UNCLE BEN'S® Trademarks, registration of Applicant's Mark in connection with the goods specified in its application will likely cause consumers to be confused, mistaken or deceived as to the source, origin or sponsorship of Applicant's goods, to believe that Applicant's goods emanate from Opposer, to believe that Applicant is in some way related to Opposer, and/or to believe that Applicant's products marketed under the opposed mark are marketed with the consent, permission or authorization of Opposer.

9. Further, due to the fame and distinctiveness of the UNCLE BEN'S® Trademarks, Applicant's use of Applicant's Mark on and in connection with the products identified in the application, is likely to dilute the distinctive quality of Opposer's UNCLE BEN'S® Trademarks, and thereby further damage Opposer.

10. For the foregoing reasons Opposer will be damaged by the registration of Applicant's alleged mark because such registration will dilute the distinctive quality of the UNCLE BEN'S® Trademarks, and the public and the trade will be caused to believe that the goods sold under Applicant's alleged trademark are produced or licensed by Opposer under the UNCLE BEN'S® Trademarks, and/or are produced by Applicant under a mark confusingly similar to Opposer's UNCLE BEN'S® Trademarks with the authorization, permission or sponsorship of Opposer.

11. For the foregoing reasons, Applicant is not entitled to registration of its alleged mark "Uncle Bal's Rice Dish", and is not entitled to the exclusive use thereof.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and registration of the mark "Uncle Bal's Rice Dish" as sought by Applicant be refused.

Respectfully submitted,

Dated: February 13, 2006

By: 

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